

# **WATER AND INFRASTRUCTURE COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**November 19, 2024**

**Online Only via Teams**

**CONVENE:** 9:08 a.m.

**PRESENT:** Councilmember Tom Cook, Chair  
Councilmember Yuki Lei K. Sugimura, Vice-Chair  
Councilmember Gabe Johnson, Member  
Councilmember Alice L. Lee, Member  
Councilmember Tamara Paltin, Member  
Councilmember Keani N.W. Rawlins-Fernandez, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Nohelani U'u-Hodgins, Member

**EXCUSED:** Councilmember Tasha Kama, Member

**STAFF:** Jarret Pascual, Legislative Analyst  
Kasie Apo Takayama, Senior Legislative Analyst  
Carla Nakata, Legislative Attorney  
Lori Tengan, Committee Secretary  
Lenora Dinneen, Council Services Assistant Clerk  
Ryan Martins, Council Ambassador

Residency Area Office:

Mavis Oliveira-Medeiros, Council Aide, East Maui Residency Area Office  
Christian Balagso, Council Aide, West Maui Residency Area Office  
Roxanne Morita, Council Aide, Lānaʻi Residency Area Office  
Jade Rojas-Letisi, Council Aide, Makawao-Haʻikū-Pāʻia Residency Area Office  
Zhanell Lindo, Council Aide, Molokaʻi Residency Area Office  
Bill Snipes, Council Aide, South Maui Residency Area Office

**ADMIN.:** Caleb Rowe, Deputy Corporation Counsel, Department of the Corporation Counsel  
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
Jordan Molina, Director, Department of Public Works  
Paul Barany, Deputy Director, Department of Public Works  
John Smith, Highways Division Chief, Department of Public Works  
Kristi Ono, Civil Engineer, Engineering Division

**OTHERS:** Charles Schiers, Interagency and International Services Program Manager, United States Army Corps of Engineers, Honolulu District  
Mikki Slentz, Senior Project Engineer and MS4 Program Management Consultant, Haley & Aldrich

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Johann Lall  
(12) additional attendees

**PRESS:**      *Akakū: Maui Community Television, Inc.*

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CHAIR COOK:      . . .*(gavel)*. . . Will the Water and Infrastructure Committee of November 19, 2024, please come to order. The time is now 9:08 a.m. May I ask all participants to please keep all noisemaking equipment silent. I'm your Chair, Tom Cook. Members, per the Sunshine Law, please identify by name if anyone is in the room, vehicle, or workspace with you, exclusive of minors. Before we begin, I would also like the department representatives to please turn on your cameras when it's your time to speak. Now, I'd like to introduce the Committee Members. Committee Chair...Vice-Chair Yuki Lei Sugimura.

VICE-CHAIR SUGIMURA: Good morning. I'm here working in Kula, and alone in my workspace. Looking forward to a productive meeting. Thank you, Chair.

CHAIR COOK: Member Tasha Kama is excused today. Councilmember Tamara Paltin, good morning.

COUNCILMEMBER LEE: That's okay.

COUNCILMEMBER PALTIN: Good morning. Aloha kakahiaka kākou, streaming live and direct from my kitchen table in Nāpili. And I have with me two canines. One of them is a minor, and the old one, his name is Kingy Poo Paltin-Vierra. Thank you.

CHAIR COOK: And Councilmember Gabe Johnson, good morning.

COUNCILMEMBER JOHNSON: Okay. I don't know what's going on *(echoing)* with my computer, but good morning. I'm alone in my workspace. No testifiers. Thank you.

CHAIR COOK: Okay. You have a bit of an echo, so I don't know what's on your end. Good morning, Councilmember Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka kākou. Mai Moloka'i Nui AHina. I am at my private residence alone here. There are currently no testifiers at the Moloka'i District Office. Member Johnson, you may need to log off and reboot your computer. Remember when Member Sinenci had that same echo problem last Committee week? So, that's something you might want to consider doing. Mahalo, Chair.

CHAIR COOK: And good morning, Council Chair Alice Lee.

COUNCILMEMBER LEE: Good morning. Aloha. And I have lots of people in this room. Thank you.

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CHAIR COOK: Aloha and good morning, Councilmember Nohelani U‘u-Hodgins.

COUNCILMEMBER U‘U-HODGINS: Good morning, Chair. How are you?

CHAIR COOK: I’m doing well, and I’m glad that we have a good turnout here in the Chambers this morning. Councilmember Shane Sinenci, good morning.

COUNCILMEMBER SINENCI: Okay. Aloha kakahiaka, Chair. I’m also here at my home office. I do have a couple canines. Adult male canine Rosco, and a minor canine. And there are no testifiers in Hāna.

CHAIR COOK: Excellent. From the Department of Public Works, we have Director Jordan Molina.

MR. MOLINA: Aloha. Good morning, Chair and Committee Members.

CHAIR COOK: We have Deputy Director Paul Barany. I hope I’m pronouncing your name properly. Barry [sic].

MR. MOLINA: Barany.

CHAIR COOK: Barry [sic]. John Smith, Chief of Field Operations and Maintenance for the Highway Division. Albert Han, Chief Engineer, Highways Division. Melissa Ann Migita, Environmental Compliance Specialist, Highways Division. And Kristine [sic] Ono, Chief Civil Engineer, Engineering Division. From Corporation Counsel, we have Deputy Corporation Counsel Caleb Rowe.

MR. ROWE: Good morning, Chair.

CHAIR COOK: From the Honolulu District, United States Army Corps of Engineers, Charles Schiers, Interagency and International Service Program Manager.

MR. SCHIERS: Aloha. Good morning, everyone.

CHAIR COOK: From Haley & Aldrich, Mikki Slentz and Senior Project Engineer in the Department of Public Works, MS4 Program, Management Consultant.

MS. SLENTZ: Good morning. Thank you.

CHAIR COOK: Good morning. Members, without objection, I would like to delegate [sic] Mr. Schiers and Mrs. Slentz as resource personnel under Rule 18(A) of the Rules of the Council due to their expertise in today’s subject matter.

COUNCILMEMBERS: No objection.

CHAIR COOK: Mr. Schiers is the point of contact for the memorandum of agreement under Bill 135, and Mrs. Slentz serves as the County’s consultant on stormwater management

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and MS4 permits. And I'd like you both to correct me if I'm mispronouncing your last names. Charles?

MR. SCHIERS: Schiers. Yes. [Sheers], like the...

CHAIR COOK: Schiers. Okay.

MR. SCHIERS: Thank you.

CHAIR COOK: And Mikki? Or...

MS. SLENTZ: Slentz is correct. Thank you.

CHAIR COOK: Okay. Thank you both. From OCS, our Committee Staff, Jarret Pascual, Kasie Apo Takayama, Lori Ann Tengan, Carla Nakata, and Lei Dinneen. Please see the last page of the agenda for information on meeting connectivity. Good morning, everyone. Today, for the...thank you for joining today's WAI meeting. We have two items on today's agenda, WAI-32 and WAI-35. WAI-32 relates to an intergovernmental agreement between the County and the U.S. Army Corps of Engineers for various technical services. WAI-35 relates to establishing a new article under Title 14 for stormwater discharge and pollution controls. Members, if there are no objections, I would like to take testimony after receiving the presentations on WAI-32 and WAI-35.

COUNCILMEMBERS: No objections.

CHAIR COOK: Thank you, Members.

**WAI-32 BILL 135 (2024), AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR TECHNICAL SERVICES**

CHAIR COOK: Members, WAI-32 relates to Bill 135 (2024), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR TECHNICAL SERVICES." Bills [sic] 135's purpose is to enter into an intergovernmental...okay. At this time, Director Molina, if you and your Staff have a presentation, you may share it, or provide any opening remarks to Bill 135.

MR. MOLINA: Thank you, Chair. So, we don't have a presentation...or sorry, excuse me. So, I'm Jordan Molina. I'm the Director with Department of Public Works. So, we don't have a presentation for Bill 135, but I do have some opening comments to share. So, the Department is here before the Committee requesting consideration of a proposed bill that will allow us to execute a memorandum of agreement with the U.S. Army Corps of Engineers to gain us access to their Interagency and International Services Program. This program allows us to utilize the Army Corps' resources in a variety of ways that support civil construction projects tied to our infrastructure. The services include

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design, permitting, environmental reviews, construction, planning, land acquisition. And so, we're just looking to get...we don't have any projects teed up at the moment, but this...executing this MOU will give us access so that when the opportunity does arise, we're prepared to then tap on that resource to help support us implementing our projects. We understand that both Honolulu and Kaua'i Counties have these MOUs in place as well. And I know some of the notable projects on Maui that Army Corps supported through this program has been the Mokuhinia ecosystem restoration project, which they did an evaluation on the feasibility of that proposal. And they recently, in assistance with DLNR, completed a West Maui watershed study for some of the watersheds on the West Side that had not been previously studied. So, that's the purpose of the bill for today. Thank you, Chair.

CHAIR COOK: Thank you, Director Molina. Mr. Schiers, would you like to provide any opening remarks?

MR. SCHIERS: Yes, I would. Thank you very much, Chairman, appreciate it. And thank you for the presentation, sir. Yes, I just want to emphasize that this is a memorandum of agreement, so there's no monetary obligations in this. This is only so that the County of Maui and USACE can work together without establishing a...formal work agreements on everything that we do from this going forward, right? This spans a number of years for the County to come directly to us and fast pace any Federal-funded projects that they may want to take up with the Corps of Engineers that are authorized under this MOA. Thank you.

CHAIR COOK: Thank you, Mr. Schiers. Before we begin our discussion, let's see if anyone would like to provide testimony for WAI-32. Staff, are there any testifiers?

***...OPEN PUBLIC TESTIMONY FOR WAI-32...***

MS. APO TAKAYAMA: Chair, Staff has not received any requests for testimony on this item. Would you like me to do the last call?

CHAIR COOK: Yes, please.

MS. APO TAKAYAMA: If anyone would like to testify, please raise your hand by clicking on the raise-your-hand button or pressing star-5 to raise your hand via phone. Last call for testimony...three, two, one. Chair, seeing no individuals wishing to testify at this time.

CHAIR COOK: Members, seeing that there are no individuals wishing to testify, without objection, I will now close oral testimony for WAI-32.

COUNCILMEMBERS: No objections.

***...CLOSE PUBLIC TESTIMONY FOR WAI-32...***

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CHAIR COOK: Members, I'm proposing two rounds of three minutes each per Member. Any objections?

COUNCILMEMBERS: No objections.

CHAIR COOK: Thank you, Members. I would now like to open the floor for questions and discussion. We'll start with Committee Vice-Chair Sugimura.

VICE-CHAIR SUGIMURA: Thank you. This is a gift, actually, in ways that I've seen U.S. Army Corps of Engineer [*sic*] do miraculous work throughout the nation, helping with, you know, bridge...all kinds of different roads and projects. But I'm grateful that we would have this MOU, which would allow us to then utilize their talent and services expeditiously. My one question is, then, Mr. Molina or...or Army Corps of Engineer [*sic*], Mr. Schiers, would we be notified in any way? Would the Council be notified in case there are projects that we will be utilizing your services?

MR. MOLINA: Thank you, Chair. And thank you, Member Sugimura. Yeah, I mean the notice would be to our typical budget process where we would, once we have a project teed up, allocate funding. Because this is...you know, there is cost-share involved. And so, just like our other Federally-funded projects, those would go into our CIP budget. So, you'll get that notice through that process. As well as part of the grant-funding requirement through the budget is when we are confirmed to have received the grant funding, notifications are sent to the Council just advising them that those funding...grant fundings have been released. So, those are the two primary routes that Council become aware of any projects that we do undertake with the Army Corps. Thank you.

VICE-CHAIR SUGIMURA: Thank you very much. Thank you for this opportunity. It's wonderful for us. We need it. We need you. Thank you.

CHAIR COOK: Councilmember Kama is excused. So, Councilmember Paltin, do you have questions?

COUNCILMEMBER PALTIN: Yes, please. Thank you. I was wondering, first question. Is this only for the disaster area, or is it for like the County as a whole?

MR. MOLINA: Thank you, Member Paltin. This would be Countywide.

COUNCILMEMBER PALTIN: And is it a violation...what about the...shoot, what is that act with the Stafford Act? Are we not bound by that Stafford Act of hiring local or anything?

MR. MOLINA: Thank you. I believe the Stafford Act refers to the FEMA funding. So, this is a different funding program through Army Corps.

COUNCILMEMBER PALTIN: Oh, so it has nothing at all to do with the disasters, or...

MR. MOLINA: That's correct.

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COUNCILMEMBER PALTIN: And is the reason we're doing this because we don't have any local talent, or is it cheaper, or...

MR. MOLINA: It's just to give us another resource to utilize. With Army Corps, they take a more proactive approach in the projects, whereas hiring consultants, we still have to manage them. So, Army Corps provides some of that project management services when we engage them.

COUNCILMEMBER PALTIN: And we don't have any current projects on deck, this is all facing the future?

MR. MOLINA: That's correct.

COUNCILMEMBER PALTIN: Do you anticipate using any for the disaster, or not at all?

MR. MOLINA: We don't have anything specific for this program for the disaster at this time, but we are constantly going through the buffet of funding programs out there to fit...to aligning projects with funding.

COUNCILMEMBER PALTIN: So, like Ka'opala Bay could be one of them, rerouting the infrastructure on the lower road or something?

MR. MOLINA: Yeah, that could be a candidate project we consider here.

COUNCILMEMBER PALTIN: Okay. And there's no limit to the projects that we consider?

MR. MOLINA: Maybe I'll have Mr. Schiers speak to any limitations on the program.

CHAIR COOK: Mr. Schiers?

MR. SCHIERS: Yes. Yeah, there are...there are two primary limitations. One, that the project must have some Federal funding. It doesn't have to be 100 percent or 50 percent, but it does have to have, you know, a threshold of, I believe, like 10 percent Federal funding. And the other limitation is, I cannot work on prior USACE projects, Corps of Engineers' projects, because those have to go through Congressional delegations in order to be renovated or remodeled or improved.

COUNCILMEMBER PALTIN: Thank you.

MR. SCHIERS: Those are my only two limitations.

COUNCILMEMBER PALTIN: Is this same thing being offered to the State as well? Because I know we do have State projects, like the realignment of the highway, probably the rebuilding of the school and the library. Is it...is it being offered to everyone, or we're just special candidates?

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MR. SCHIERS: You are special candidates, but no. MOAs are open to anybody who applies for them. We have MOAs and MOUs through the IIS program. We do have a memorandum of agreement currently with the State of Hawai'i, which we can go through as well. And we have ones with Maui County, Honolulu County, and a number of other departments, like HDOT and at DLNR. . . .*(timer sounds)*. . .

COUNCILMEMBER PALTIN: Okay. Thank you. That's my time. Thanks for explaining all those things.

CHAIR COOK: Thank you. Member Johnson, you're up. You have some questions, sir?

COUNCILMEMBER JOHNSON: Sure. Thank you, Chair. And I apologize, I was trying to get on the meeting, so I might have missed some opening remarks. And I beg your pardon if my questions have already been answered. But this is for Director Molina. It just goes right to the point. Specific projects, are there any specific projects that you folks are looking at for this MOU?

MR. MOLINA: Member Johnson, not at this time.

COUNCILMEMBER JOHNSON: Okay. Mr. Schiers, you mentioned that one of the prerequisites was to have the...we have to apply for Federal funding. I would assume it would be Director Molina who applies for the Federal funding. I'm curious about the timelines for when the County should apply for Federal funding. Is there a time...a specific, you know, time of the year we should all be putting our applications in?

MR. SCHIERS: Yeah, there we go. I think there's a little bit of miscommunication. It's not that you apply for Federal funding, it's that the project you have already has a portion of Federal funding.

COUNCILMEMBER JOHNSON: Okay.

MR. SCHIERS: Right? Yes. The IIS program does not have a grant-funding stream. We work on the...shall we say, the disposition of our customers, right? Whatever project you have, as long as it has Federal funding and you come to me and it's not another Corps project, then I can take on and at least move through my command to make sure that we can provide you with the service you require.

COUNCILMEMBER JOHNSON: Okay. So, I'm going to bounce back to Director Molina. Do we have any Federal funding on some of our projects in the County as we speak?

MR. MOLINA: Yeah, Member Johnson. DPW regularly administers Federal Highway funding through the Federal Aid Program.

COUNCILMEMBER JOHNSON: So, Mr. Schiers, is that something that we could use, is those highway funds, those Federal Highway funds?



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MR. SCHIERS: Most certainly, yes. We have multiple projects on with the Highway Department of Trans...the Hawai'i Department of Transportation currently.

COUNCILMEMBER JOHNSON: So, like roads in the County would be an ideal project because it's getting Federal funds? Is that something that would be kind of top of the list, maybe?

MR. SCHIERS: It would be your list, sir, but yes.

COUNCILMEMBER JOHNSON: Right.

MR. SCHIERS: Yes, we can easily do that for you.

COUNCILMEMBER JOHNSON: Okay. So, there's a parcel on Lāna'i that the County owns that is zoned Public/Quasi-Public zone, but it's kind of in the middle of nowhere. So, you know, we would like need to build a road out to that area, but that area being zoned Public/Quasi-Public would be a great place for, say, for example, a hurricane shelter, or something that benefits the public. If we were to get Federal funds for that, that's...would be an applicable project. Is that what I'm hearing?

MR. SCHIERS: I believe so, sir. Yes.

COUNCILMEMBER JOHNSON: Okay. Okay. Those are all my questions. Appreciate your answering them. Thank you, Chair.

CHAIR COOK: Thank you. Councilmember Rawlins-Fernandez, good morning. You have questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. No questions. All my questions have been asked.

CHAIR COOK: Okay, thank you. Council Chair Lee?

COUNCILMEMBER LEE: Thank you, Chair. Mr. Molina, if we didn't have this agreement, we would just apply for assistance from the Corps on a case-by-case basis?

MR. MOLINA: Yeah, that's correct. And I don't know if Mr. Schiers wants to expand on that response because, like he mentioned, these are meant to be supporting non-Army Corps projects. So, in the past, we've gone through the regular Army Corps' door, so to speak, to get their services.

COUNCILMEMBER LEE: So, is there any provision where once we obtain their services, or enlist their services, that you notify the Council?

MR. MOLINA: Yeah, thank you. Like I mentioned to Member Sugimura, that project notification comes through that budget process. So, if you want something above and beyond that, you know, happy to accommodate that, but there'll be two...two mechanisms, is one through the annual budget when you guys approve the CIP

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program, as well as when we obligate the Federal funding, we have to give those notices to you folks when the grant money is available for those projects.

COUNCILMEMBER LEE: But at that point, the project is on its way, right?

MR. MOLINA: Yeah, because you guys would have approved it in the CIP budget.

COUNCILMEMBER LEE: Okay. All right. Thank you.

CHAIR COOK: Councilmember U'u-Hodgins, question?

COUNCILMEMBER U'U-HODGINS: Thank you, Chair. I have no questions.

CHAIR COOK: Okay. Councilmember Sinenci?

COUNCILMEMBER SINENCI: Mahalo, Chair. Yeah, I have a question for Mr. Schiers. Here in East Maui, we have a lot of rural communities, and many of the small communities live in like areas that are not always accessible. They...they're old government roads, and a couple on those roads have some old bridges that are not dedicated to the County. And so, we're looking to...and of course, these are all taxpayers that live in these small communities that require sometimes emergency...they pay for water, and they require emergency services to their properties. However, these old government roads are oftentimes not paved, and for them to access...get out in an emergency, some of these bridges are not up to Code. Can the...can this MOU with the Army Corps help with some of our rural communities that don't always have these...I guess, Federally...they're old bridges of the plantation era? And so, we're trying to fix these so that our residents have--at least in emergencies--have access either to the shoreline, or out of their residential rural areas.

MR. SCHIERS: The short answer is yes, sir. Yes, the...this MOU can assist with that...again, providing you have some Federal dollars according to the project. We are currently doing roadway work with HDOT here on Honolulu. We're doing some climate resiliency studies as well, you know, raising roadbeds and bridges, so things of that nature. So, yes, the IIS program can be an avenue to the Corps to get that work accomplished.

COUNCILMEMBER SINENCI: Okay. Thank you. And then, Director, I know sometimes the ownership...you know, these were old plantation bridges to access streams. Do we need ownership to move forward, or can we just go ahead and supply emergency access for these residents?

MR. MOLINA: Thank you, Member Sinenci. Generally, the County, if it's putting out money for hardened structures or any kind of structures, we want the land rights tied to it. Otherwise, you guys are just improving private property at that point. So, yeah, land rights to enable to authorize us to spend County fundings and Federal funding will be necessary.

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COUNCILMEMBER SINENCI: Yeah, and that's been our dilemma. And in the meantime, you know, these old bridges are, you know, falling...falling down, and we cannot...you know, we're putting more of our residents in harm's way. So, I was hoping that the Army Corps could at least, you know, as far as emergencies under an emergency, help to redo some of these old bridges. Thank you for that. Thank you, Chair.

CHAIR COOK: Thank you. Chair has a question for Mr. Schiers. Is this basically engineering and project management assistance to the County of Maui for designed and Federal...and...and federally-funded projects?

MR. SCHIERS: Yes, sir. They don't have to be 100 percent Federally funded, though. It could be as little as 10 percent Federal funding on this project in order to take it on through the IIS program. That is one of the benefits of this MOA. It is a shortcut into the...into USACE, right, into all USACE services.

CHAIR COOK: Thank you. Okay. Is there a second round of questions desired? Member Sugimura?

VICE-CHAIR SUGIMURA: No more questions. Call for the vote when you're ready.

CHAIR COOK: Okay. Any of the other Members have questions? You want to raise your hands before the vote? Okay. If all in agreement, seeing no further discussion, we'll move on to decision making. The Chair would like to entertain a motion to recommend passage of Bill 135 on first reading.

COUNCILMEMBER U'U-HODGINS: So moved.

COUNCILMEMBER LEE: Second.

CHAIR COOK: So, moved by Member U'u-Hodgins, seconded by Chair Lee. Members, would you like to entertain a motion...okay. Da, da, da. Okay.

COUNCILMEMBER LEE: Discussion?

CHAIR COOK: Any discussion? No discussion. Members, your Chair would like to entertain a motion to substitute Bill 135 (2024) with the attached proposed CD1 version incorporating the amendments referenced in the ASF's description.

COUNCILMEMBER U'U-HODGINS: So moved.

VICE-CHAIR SUGIMURA: So moved.

COUNCILMEMBER LEE: Second.

CHAIR COOK: So moved by Member U'u-Hodgins, seconded by Chair Lee to substitute Bill 135 with the proposed attached CD1 version. Members, this ASF just simplifies the

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bill's title and incorporates clarifying and nonsubstantive revisions. Any discussion?  
Seeing no further discussion. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR COOK: Okay. I can't see my screen for a moment, so...

MR. PASCUAL: Chair, I'm seeing seven "ayes," zero "noes," two excused, Members Johnson and Kama. Motion passes.

**VOTE:        AYES:    Chair    Cook,    Vice-Chair    Sugimura,    and  
                 Councilmembers   Lee,   Paltin,   Rawlins-Fernandez,  
                 Sinenci, and U'u-Hodgins.**

**NOES:    None.**

**ABSTAIN:    None.**

**ABSENT:    None.**

**EXC.:    Councilmembers Johnson and Kama.**

**MOTION CARRIED.**

**ACTION:    SUBSTITUTE BILL 135, CD1 (2024).**

MR. PASCUAL: You are back to the main motion as amended.

CHAIR COOK: Thank you, Members. Now, back to the main motion as amended. Any further discussion?

VICE-CHAIR SUGIMURA: I have a question.

CHAIR COOK: Seeing none. Oh, Member Sugimura?

VICE-CHAIR SUGIMURA: Yeah. Did Corp. Counsel sign this bill? The copy I'm looking at is unsigned.

MR. ROWE: Sorry, we did sign the original bill, I believe, the one that was first referred to Council, but we did not sign the CD1 version.

VICE-CHAIR SUGIMURA: Is there a reason, or is just not enough time?

MR. ROWE: I...I'm not sure that we received it.

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MR. HOPPER: Chair? Chair, this is Michael Hopper. I'm on the line too. I worked on the original one. Yeah, I just don't think we got the amendment summary form yet in time, but in looking at it, I don't think we had any issues with it. So, I think if you approve, I think we'd be able to sign that without trouble.

VICE-CHAIR SUGIMURA: Okay. Thank you. Continue on.

CHAIR COOK: Okay. The Chair did have one other question for Corp. Counsel, if this agreement has any financial obligations under County Code section 2.20.020?

MR. HOPPER: Chair, this was...this was a...sort of a thought we had. We would bring it to you anyway. I do think there is a good argument that this doesn't really create any financial obligations. Because if the County just doesn't use these services, or doesn't approve anything else in the budget to fund these programs, it doesn't have to pay anything. So, there was an argument this didn't even have to come to you. But I think the thought was to send it because it could deal with future budgeting actions, and for the Council's awareness that that was a good thought. But at this time, I do not see this creating any financial obligation, and any obligations would have to be funded by the Council in the future, as the Director said, through the budget process. So, that's...those were our thoughts. We figured you probably would want to see this anyway because of the duration and to be...have an understanding of how this program would work going forward. But yeah, at this exact time, I think, as stated in the presentation, it doesn't actually obligate the County to fund any particular program.

CHAIR COOK: Thank you, Mr. Hopper, for clarification on that. Thank you, Members. Now we're back to the main motion as amended. Any further discussion? Okay. Seeing no further discussion, all in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR COOK: Staff?

MR. PASCUAL: Chair, you have eight "ayes," zero "noes," one excused, Member Kama. Motion passes.

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**VOTE:**      **AYES:**    **Chair Cook, Vice-Chair Sugimura, and Councilmembers Johnson, Lee, Paltin, Rawlins-Fernandez, Sinenci, and U‘u-Hodgins.**

**NOES:**    **None.**

**ABSTAIN:**    **None.**

**ABSENT:**    **None.**

**EXC.:**    **Councilmember Kama.**

**MOTION CARRIED.**

**ACTION:**    **FIRST READING OF BILL 135, CD1 (2024).**

CHAIR COOK: Thank you, Members. This item will move on for full Council’s consideration. Let’s move on to our last item, and it’s still early.

**WAI-35    BILL 157 (2024), AMENDING TITLE 14, MAUI COUNTY CODE, TO ESTABLISH ARTICLE 5 RELATED TO THE REGULATION OF STORMWATER DISCHARGE AND POLLUTION CONTROLS**

CHAIR COOK: Members, WAI-35 relates to Bill 157 (2024), entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, TO ESTABLISH ARTICLE 5 RELATING TO THE REGULATION OF THE STORMWATER DISCHARGE AND POLLUTION CONTROLS.” Bill 157’s purpose is to prohibit activities that may pollute stormwater discharges and can...and certain nonstormwater discharges that could enter the County storm drainage system. Director Molina, at this time, would you and your staff be able to share your presentation on Bill 157?

MR. MOLINA: Yeah. Thank you, Chair. *(pause)* All righty. Yeah. Thank you for the time today and the consideration hearing this proposed bill. The purposes of this bill is to manage our stormwater discharges and establish pollution controls to allow the Department of Public Works to effectively enforce against sources of potential pollution into our waterways. So, today, I’ll go through kind of where this came from, what the ordinance plans to do, and some information about the program. Next slide, please. So, first yeah, I’ll talk about the legal authority to require stormwater discharge and pollution controls via ordinance. Next slide, please. So, this all begins with Federal regulation administered by the United States EPA under the Clean Water Act, which establishes the National Pollutant Discharge Elimination System program, or the NPDES. The NPDES program covers various types of stormwater scenarios, one of which particularly applies to us today is discharges from municipalities related to their municipal separate storm sewer system, or MS4 system. In 2010, the U.S. Census designated the Kahului-Pā‘ia area as an urbanized area, and this created us to become

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regulated as a small MS4 system. The NPDES program is administered by the State through the Department of Health, and so through their administrative rules relating to water pollution control, particularly Appendix K, is what the permit that we operate under to have drainage infrastructure within the urbanized area on Maui. So, yeah. So, federal regulation through the Department of Health trickles down to the County, and so we hold a permit to operate our system that DOH enforces over us. Next slide, please. So, the Appendix K, which relates to the MS4 stormwater permit, has two...two-step approach. They...the...in Appendix K of the State rules, there's a baseline condition for how the program needs to be managed, and then to supplement that, there is a stormwater management plan that is specific to each permittee. So, we have...on the right, there's the image of the latest plan that was just updated in 2022, which was our first update from when we did the initial plan when we first became a regulated MS4. Next slide, please. So, under our MS4 permit, there are six program categories. And so, this is what we have Haley Aldrich supporting the Department administering all these various areas. So, we have, you know, public outreach and education component, public involvement and participation. Today's subject, which is the illicit discharge and elimination. We have construction site runoff control, post-construction runoff control, and pollution prevention, and good housekeeping. So, all those programs collectively make up the requirements of our MS4 permit. Next slide, please. And then...yeah. So, today we're here to talk about the illicit discharge component of the program. Next slide, please. So, again, going back to the admin rules, as part of our stormwater management plan, we need to establish minimum control measures, which prohibits nonstormwater discharges into our drainage system, our MS4 system. So, that is the objective of this MOA, is to establish those control measures so that we can appropriately administer our stormwater permits. Next slide, please. So, part of our stormwater management plan are specified goals, measures and goals. So, for us, on this last round, getting this ordinance enacted is one of our goals that we represented to the State that we would try and accomplish by the end of this calendar year. That comes directly out of our plan in direct compliance with the regulations of MS4. Next slide, please. So, why this is important is we can get fined for this. This is, again, a federally-mandated program. There are instances where EPA and the State has come down heavy on other MS4 operators that have been in noncompliance. So, on the right, there's a couple news clips of some of these actions. Fortunately, we have been able to keep up to the satisfaction of the Department of Health, so we have not threatened, but this IDD ordinance has been on the radar for some time now, and so, yeah, it is becoming a more pressing matter for us to comply...to remain in compliance with our permit. Ultimately, if these programs fall out of compliance, we could be headed for a consent decree, you know, should it be warranted, which we hope to avoid altogether. Next slide, please. All right. So, why...why is this ordinance important for us? And it's, you know, mainly to protect our environment. Next slide, please. So, this is a...primarily a pollution prevention strategy to keep trash and other unfavorable materials out of our storm drain systems, which here in Hawai'i, all the storm drains end up in the ocean, or they'll end up in a stream, which ends up in the ocean. So, that's really the impetus for pursuing this regulation today. Next...next slide, please. So, this picture, we have some examples of what we would be looking at under this regulation. So, you see on the left, we have some litter in the waterway along a drainage channel. And then towards the right, we have an example of where trash receptacles

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are not being well maintained. And so, you have loose trash and debris on the ground, and that becomes a potential source for pollution. You know, a storm comes, or even wind comes, blows the trash down the street, into the drains, into the ocean. Below that dumpster picture, you have some motor oil laying on the ground at a warehouse site. That's another example of a potential pollution source that we would be enforcing under the ordinance. Next slide, please. So, I'll...we'll go into the...kind of the specifics of the ordinance itself. So, next slide. So, again, the purpose is to prohibit activities that may result in stormwater pollution that could enter the County storm drainage system. The explicit prohibition is no person shall cause or allow others to cause any illicit discharge into the County storm drainage system or any drainageway within the County. There's a requirement for best management practices, so any person responsible for a property which may be a source of illicit discharge shall, at their expense, provide reasonable protection from accidental discharge into the County storm drain system. And if necessary, the County would step in to help put them on a program to ensure that both structural and nonstructural best management practices are in place to prevent those pollution potentials. The violations will be enforced consistent with our other violation procedures that are laid out in Title 19. So, the enforcement will be issued upon the property owner, and all costs for abating the violation will be assessed on that property owner as well. Next slide, please. So, within the State regulation and within our permit, there is a listing of what is allowable discharges. The framework under the State rules, it's very broad. Basically anything that may cause pollution is prohibited. And so, to try and put some definitions around what those are, there's certain items that we've identified within our stormwater management plan that, you know, we're going to consider as not violations or not illicit discharges. So, things like the waterline flushing, irrigation runoff, stream flows that may be diverted, uncontaminated groundwater, potable water, small car washing from residential properties, pool discharges when they're dechlorinated, hydrant flushing. So, things that are, for the most part, clean water or minimal amount of water is being released and going into the storm drainage system. Next slide, please. So, the ordinance is structured largely after a federal template. So, the EPA has a model illicit discharge and connection ordinance. So, the language within the ordinance in front of you is largely based off of that framework. And then as part of our MS4 permit requirements, that education campaign is, you know, actively occurring. On the right, you see examples from our annual construction BMP conference that we host. And so, there will be an effort once...if...should this ordinance be enacted to then provide that outreach and education on illicit discharge to property owners and the public. Next slide, please. So, whenever there's a suspected illicit discharge, we have various ways of the public can report in to us. We have a complaint form on our County stormwater webpage. There's also our famous SeeClickFix or COMConnect route to submit anything the public may see. You can also call our Highways Division, who is the...part of the...the group in the Department that directly administers the stormwater program. And then we have also an email, [stormwater@mauicounty.gov](mailto:stormwater@mauicounty.gov). And that's all I have for today. Thank you.

CHAIR COOK: Thank you, Director Molina. Ms. Slentz, would you like to provide any opening remarks on Bill 157?



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MS. SLENTZ: I have nothing additional to add. I think Jordan did an excellent job . . .*(inaudible)*. . .

CHAIR COOK: I'm sorry, could you speak up? I couldn't hear you.

MS. SLENTZ: Sorry about that. I think Jordan did an excellent job of the summary. I don't have anything to add, but happy to answer any questions.

CHAIR COOK: Thank you very much. Before we begin our discussion, let's see if anyone would like to provide testimony for WAI-35. Staff, is there any testifiers?

**. . .OPEN PUBLIC TESTIMONY FOR WAI-35. . .**

MS. APO TAKAYAMA: Chair, Staff has not received any request for testimony at this time. Would you like me to do a countdown?

CHAIR COOK: Please.

MS. APO TAKAYAMA: If anyone would like to testify, please raise your hand by clicking the raise-your-hand button online or pressing star-5 via phone. Last call for testimony...three, two, one. Chair, seeing no individuals wishing to testify.

CHAIR COOK: Members, seeing there are no individuals wishing to testify, without objections, I will now close oral testimony on WAI-35.

COUNCILMEMBERS: No objections.

**. . .CLOSE PUBLIC TESTIMONY FOR WAI-35 . . .**

CHAIR COOK: Members, I'm proposing two rounds of three minutes each per Member. Any objections?

COUNCILMEMBERS: No objections.

CHAIR COOK: Thank you, Members. I would now like to open the floor for questions and discussion. We will start with Committee Vice-Chair Sugimura.

VICE-CHAIR SUGIMURA: Thank you, Chair. Great to see this, and congratulations to the Department for moving this forward. I guess when we became...when...when the Census considered us to then be a bigger municipality, this is one of the impacts. Not only did we get the MPO, but this designation. So, Department, once we pass this...we need to pass it by the end of this year, and you have administrative rules for this all set?

CHAIR COOK: Director?

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MR. MOLINA: We don't have administrative rules at this time, but we do have existing administrative rules on enforcement practice that we'd be looking to amend. And we...we felt that the language of the ordinance is clear enough to give us enough direction to be able to start administering, which, you know, the primary effort is really education and outreach of the program. We want to prevent these things rather than having to enforce on them. And so, fortunately, you know, Council has been gracious to fund our requests to support the MS4 program to hire the consultant team to support us. So, you know, a lot of this is in motion already on a voluntary basis. This will just give us the teeth should we find ourselves encountering difficult property owners that we can then, you know, flex our muscle a bit more to get them to take care of their properties. Thank you.

VICE-CHAIR SUGIMURA: Fabulous. Thank you very much. No other questions, Chair.

CHAIR COOK: Okay. Councilmember Kama is excused today. Councilmember Paltin, questions?

COUNCILMEMBER PALTIN: Thank you. I have so much questions and so little time, so if people can keep their answers tight. The first question is, how do you determine it's a dechlorinated swimming pool discharge? Like, do you go and sample the water, or is it too late after the fact?

MR. MOLINA: Yeah, there's...there's various products that can be utilized to dechlorinate. And so, if we get a report that, you know, someone's just dumping pool water straight into their street, we'll investigate and determine whether they're doing it in compliance or not.

COUNCILMEMBER PALTIN: So, like all --

MR. MOLINA: And it's going to be...

COUNCILMEMBER PALTIN: -- the hotels and stuff like that?

MR. MOLINA: Correct, yeah.

COUNCILMEMBER PALTIN: Oh, awesome. Okay. And then it says that Title 14 is amended. When I look at the first bill, not Councilmember Cook's version, Bill 157, I don't see those, like, lines and brackets. Is this an entirely new section? My hard copy of the Code is in my office, which one burned down, and one I don't have access to.

MR. MOLINA: That's correct. This is an entirely new provision in the County Code.

COUNCILMEMBER PALTIN: Okay. And then how come it refers to Chapter 19 for the fines? Is ZAED going to be doing the enforcement? Like, who collects the fines?

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MR. MOLINA: Yeah. So, 19 has been historically where the enforcement protocols have been established for various titles within the County Code. I think that's a leftover of past structures of the County where before Public Works had what was called LUCA, and we did Building Code as well as zoning enforcement. But what comes out of that is the administrative rules. And so, the Department has its own set of administrative rules under that Title 19 authority, which guides our enforcement of the provisions which we enforce, which is Title 12, Title 11, Title 16, Title 18, Title 20.

COUNCILMEMBER PALTIN: Okay.

MR. MOLINA: So, this wouldn't be in conflict.

COUNCILMEMBER PALTIN: I can move on to the next question. I thought the MS4 is just for that urban area, but it seemed as though that you said Countywide, this would be enforced. Is that, like, even to Lānaʻi, Molokaʻi, Hāna, West Maui, even though the MS4 Census population was largely the Central area?

MR. MOLINA: Yeah. So, we're proposing that this regulation be applied Countywide for uniformity across the County, as well as...because of the benefit, you know, the ordinance provides. But the...the need, or the strong requirement to move it forward is because of the MS4.

COUNCILMEMBER PALTIN: Oh, I see. And then we got plenty gulches here in the Nāpili Hau area that is built up with, like, all sorts of rubbish. I'm not sure who's the landowner, if it's the County, and people are just encroaching. So, if we were to report something like that nowadays--because I reported it a lot back in the day--now, if it is County land, we would be the fined party?

MR. MOLINA: Yeah. Or we would be the one to go clean it up, or figure out which department is in control of those lands to go clean them up.

COUNCILMEMBER PALTIN: And is it . . . *(timer sounds)*. . . strictly...oh, shoot. Okay. Coming around next time.

CHAIR COOK: Thank you. Member Johnson, questions?

COUNCILMEMBER JOHNSON: Thank you, Chair. Yeah, this...this is a pretty big chapter in the Code, so I have some questions as well. Director Molina, you mentioned that this applies to private storm drains and drainage systems. I'm trying to get specific examples of who has private storm drains. Are they hotels? Are they golf courses? Are they affordable housing projects? Can you kind of give us an examples of some of those privately-owned storm drains?

MR. MOLINA: Yeah. So, that's anything that's onsite. So, here at the County Building, for example, the parking lots collect water. There's some drains in the...in the ro...in the pavement around the property that then discharge to the County street. And so, that's what we would be looking at, that those drains are not receiving any sort of potential

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contaminants. And if there are contaminants in the area, that there's appropriate management practices in place to prevent items from potentially causing pollution.

COUNCILMEMBER JOHNSON: So, how does this work in like a gated community? You have to go into a gated community, investigate? Is that...

MR. MOLINA: Yeah. That's...if we...if we have reason to believe that there's a illicit discharge occurring in there, we would investigate. Or we would, at the point of connection to the County system, you know, enforce against the whole property potentially, just depending on the nature of the violation, and kind of how extensive it may be.

COUNCILMEMBER JOHNSON: Okay. You said one of the fact...one of the big parts of this bill is the education campaign and the outreach. Can you talk about the budgets? Did you guys have a estimation of the budget that you're going to put behind the education and outreach?

MR. MOLINA: I know right now, approximately, our MS4 contract is about a million dollars a year. And so, that includes already a pretty robust educational effort. And so, we'll be reviewing kind of what additional steps we can take once this comes out and putting that...incorporating that into our budget requests for FY '26.

COUNCILMEMBER JOHNSON: So, you're already doing education outreach. How's it going?

MR. MOLINA: Maybe I'll have Mikki speak to some of the programs that they support currently.

MS. SLENTZ: Yeah. Thank you for the question. Our outreach program is quite extensive. We do outreach to schools, and we used to do libraries, but they haven't been allowing us to do presentations. We just did a presentation to the Girl Scout troops. We're doing a presentation this week to a college class. So, it's going well. We would like more opportunities to get in front of a larger crowd. But it does...it goes well, and it's very well received.

COUNCILMEMBER JOHNSON: You're...you're going before kids in the examples you gave. What about HOAs and those folks who are, you know, like project managers and things that...you know --

MS. SLENTZ: Yeah.

COUNCILMEMBER JOHNSON: -- those kind of things?

MS. SLENTZ: That's an...that's an excellent venue to...to have some outreach. We also have outreach . . .*(timer sounds)*. . . to contractors and designers.

COUNCILMEMBER JOHNSON: Oh, okay. My time's up. Thank you so much. Thank you, Chair.

CHAIR COOK: Councilmember Rawlins-Fernandez, questions?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo for this bill, Public Works. I have some questions. Mahalo for the presentation. So, I think this is a great bill. It's pretty well written. Mahalo. I do support this applying Countywide. So...and I do support that education is the best prevention. But for violations, or potential violations alleged, it would be complaint-driven, right?

MR. MOLINA: Thank you, Member Rawlins-Fernandez. Not entirely. Our consultant team does do periodic inspections throughout the MS4 region. So, there is a component of proactive enforcement as well.

COUNCILMEMBER RAWLINS-FERNANDEZ: That's great. Because my follow-up question was going to be if Public Works Staff or County employees are prohibited from filing complaints. So, the answer is no?

MR. MOLINA: Yeah. No, there is no outright prohibition against County employees filing complaints.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, great. For the, I guess, allowable discharge under the NPDES permit, is...when the complaint is made, is that when the party would need to submit their NPDES permit to show that it's allowable discharge?

MR. MOLINA: No. So, these types of discharges primarily addressed by this ordinance are those that don't require any sort of NPDES permit from the State. The only type of projects typically that we see...that we most regularly encounter requiring NPDES permits are large construction projects where they're going to have, you know, a large area grubbed and graded and it's open. And so, if a large storm comes, they need to have a plan in place to manage that stormwater runoff because of that increased likelihood of contaminants or, you know, sediment releases. So, those type of properties have an NPDES permit for their construction activities. But most of what we're talking about in this bill are going to be your day-to-day, you know, washing down the sidewalk, or washing the truck, or it rains.

COUNCILMEMBER RAWLINS-FERNANDEZ: Correct. So, if the...if a complaint comes in, and the person who's filing a complaint doesn't know that that person has an NPDES permit, would the Department then have to track that down? You would just contact the party that the complaint is being filed against to determine if they have an NPDES permit?

MR. MOLINA: And most likely we'll start with the grading permit enforcement because that would be...in the case of a large construction site and bare ground, that would be the first tier of response, to ensure they have grading permits in place. And those large projects, when they get a grading permit, one of the requirements is that they have that NPDES permit also.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. All right. So, for 14.81.010, prohibition of illicit discharges, and it has a list of examples of allowable discharges. What will be

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the process for determining if an allowable discharge is allowable if it's not named as an example on this list?

MR. MOLINA: Yeah. So, we'll perform an inspection and have to do an assessment to really understand the specifics of what is occurring on-site, and make a determination from there.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, you as the Director, or whoever is the Public Works Director and team would make that determination?

MR. MOLINA: Yeah. So, our Highways Division would be the lead for administering this program. So, under them, they would--most likely through our consultants at this point . . . *(timer sounds)* . . . because we don't have a large Staff, in-house Staff--would conduct those initial inspections and evaluations to determine, you know, the nature of the violations, the extent, and then an appropriate remedy for what's occurring.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, great. Mahalo, Director. Mahalo, Chair.

CHAIR COOK: Council Chair Lee?

COUNCILMEMBER LEE: Thank you. I have questions for Mr. Molina. So, you know, the present-day subdivisions, probably going back 20 years or so, are now required to retain all drainage on their properties, yeah?

MR. MOLINA: That's correct.

COUNCILMEMBER LEE: Okay. So, whether it's drainage, ordinary drainage from regular, you know, runoffs or stormwater, what happens to older subdivisions that do not have the infrastructure to retain the runoff?

MR. MOLINA: Yeah. So, this bill doesn't address that component of stormwater. So, they're not going to be required to upgrade or anything like that. But in those older subdivisions, what's happened is the water just flows along the surface. So, it'll drain off the property, it'll drain to the street, and then in most cases, it'll just roll down the street until it hits a drain at some point.

COUNCILMEMBER LEE: Yeah.

MR. MOLINA: So, that...that condition is not going to change. What is going to happen is if that home, for example, has a bunch of cars that are leaking oil, that allows us to go in there and work with them to get that remedied so when it does rain next time, we don't have oil going down the street.

COUNCILMEMBER LEE: Okay. I was pretty much concerned about the Lahaina folks rebuilding, and the older homes that were not in compliance. So, they don't have...they would still be exempt?

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MR. MOLINA: Yeah. So, in terms of the Lahaina, these subdivisions do not...or in this case, for residential properties, they're not going to trigger drainage improvements for their rebuilds, and this ordinance doesn't affect that at all.

COUNCILMEMBER LEE: Okay. Thank you. Next.

CHAIR COOK: Thank you, Chair. Councilmember U'u-Hodgins, question?

COUNCILMEMBER U'U-HODGINS: Thank you, Chair. I do, I have a few. I wanted to kind of pick up what you just said to Chair Lee and how some homes, I'd say, have a bunch of derelict vehicles, and then all the leakage from gas and oil will eventually end up in a storm drain. Are we going to crack down on some of the derelict vehicles that somehow people pile up outside their house?

MR. MOLINA: Yeah. So, this ordinance gives us another enforcement mechanism to go after those individuals in a stronger sense. Our existing provisions, which are really our Beautification Code and our litter control ordinance are not the best written, and so we struggle sometimes to utilize those codes. But this one is very explicit --

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: -- and gives us a better clarity to go after that scenario.

COUNCILMEMBER U'U-HODGINS: Okay. Would you mind giving the example of what it looks like for them to be knowingly doing this? Like, is there a threshold to how many derelict cars they can have sitting outside in their yard?

MR. MOLINA: No, it's really going to be a judgment call. I mean, all enforcement is, depending on how cooperative the property owner is, their ability to remedy the situation.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: And what the good or bad, the term the thresholds are very broad.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: So, anything that can cause pollution, which can be almost anything, depending on how you're going to quantify --

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: -- what's occurring.

COUNCILMEMBER U'U-HODGINS: And that brings me to, like, parking lots, where, you know, it's just the nature of the beast, where you have cars constantly that leak oil, gas, whatever. And then you have, like, a parking lot, like the airport, where they have a whole bunch of abandoned vehicles. How can we help remedy those situations?

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MR. MOLINA: Yeah. So, in that case, if we feel like the situation is...you know, warrants action because, for whatever reason, they just have a whole bunch of 80-year-old cars leaking over there, then this ordinance would allow us to then take action against that property owner to have them figure out best management practices to prevent that pollution potential from continuing.

COUNCILMEMBER U'U-HODGINS: Okay. And what if there's not necessarily a storm drain nearby, and you just have a collection of derelict vehicles? What are we going to do then?

MR. MOLINA: Same thing would apply. That property is going to be discharging storm water in one way or another.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: And if there's no drain, it's going to be over the surface.

COUNCILMEMBER U'U-HODGINS: Okay. And then I just have one more quick question about air conditioning condensate. So, when I used to do permits for Wastewater, we had to do a dry well for the AC. And are we assuming this dry well connects to the storm water, or how does this work?

MR. MOLINA: Typically, dry wells do not connect to any sort of drainage system. Yeah.

COUNCILMEMBER U'U-HODGINS: So, then we can permit AC condensate without a dry well?

MR. MOLINA: No, that's a different requirement.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: We just don't need additional regulation --

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: -- to allow the discharge of the condensate.

COUNCILMEMBER U'U-HODGINS: Okay. That's all I have. Thank you.

CHAIR COOK: Councilmember Sinenci, you have questions?

COUNCILMEMBER SINENCI: Mahalo, Chair. Just continuing the line of questioning. Director, does the County fence off, or the areas where you see a lot of dumping of green waste or mattresses, those such...those things into the drainage areas?

MR. MOLINA: Sometimes we do. It just depends on whether there's enough roadway to safely barricade off and cut off the width of the roadway.



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COUNCILMEMBER SINENCI: Okay. But do you...you do see areas where people are dumping either green waste or old mattresses and household goods into the river?

MR. MOLINA: Yeah, we routinely assist with removing those items from the roadways.

COUNCILMEMBER SINENCI: Okay. I'm generally supportive of the bill. I was curious, for those areas...you know, we've...in case people get caught in big flows, is there any safeguards that the County puts, whether it be emergency hatches or anything like that, should anybody get, you know, washed downstream or, you know, just additional fencing, those types of things, to prevent them from being washed through the culverts?

MR. MOLINA: Yeah. So, that's not related to this ordinance today, but we do --

COUNCILMEMBER SINENCI: Yeah.

MR. MOLINA: -- install safety measures at various places--you know, guardrails, manholes, for example--keep most people out of the drains in the road. But we do not fence all the drainageways in the County.

COUNCILMEMBER SINENCI: Got it. Okay. Thank you. Thank you, Chair.

CHAIR COOK: Thank you. Members, the second round of questions. You can raise hands. Member Paltin to start with.

COUNCILMEMBER PALTIN: Thank you. My question is, how would this bill intersect with Member Johnson's suite bill, or ACLU laws and rules? Because the County owns some properties that are a big problem. Mr. Lindsey owns some properties that are a big problem, and it seems as though they're...these properties--Mile Marker 13.5, Cut Mountain, Pi'ihana Farms--would be a violation of this ordinance. Is that...do you agree, or no?

MR. MOLINA: I'll just say there's many layers to those scenarios, so we're not here to say what you can or cannot do on your property. We're...this bill is just here to say that if you do certain activities that have the potential to pollute, you need to have practices in place, systems in place, to prevent that pollution. And so, this would apply to those potential areas where we have concentrations of, just call it waste, uncontrolled waste, and that is an obvious source of pollution. And so, in this case, we would have the authority to go into those properties and pursue enforcement actions to ensure those waste...those potentials for discharge and pollution are man...are being managed.

COUNCILMEMBER PALTIN: Is there a time frame? Like, I mean, we know that that's going on right now--Mile Marker 13.5, Cut Mountain, and Pi'ihana Farms, for example. And so, like, first reading, maybe December, second reading, December, starting January, like, somebody SeeClickFixes those three areas. Can you walk us through what enforcement would look like?

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MR. MOLINA: Yeah. So, we would put them...you know, we'd issue formal notices. In those cases, that's going to be extensive, to quantify the full breadth of what are the violations. And we'll just be working with them to get their response. . . .(inaudible). . .

COUNCILMEMBER PALTIN: So, would you need more personnel?

MR. MOLINA: I mean, yeah. We're definitely going to have to bring in a larger team to assist us with that particular site, just because we know the vast expanse of activity there.

COUNCILMEMBER PALTIN: And then Chair Lee, myself, had a meeting with some folks. I think Member U'u-Hodgins had a meeting with some folks. And I don't want to disclose, but would you be working, like, through the Department of Management to coordinate all the entities that we've been speaking with on some of those locations?

MR. MOLINA: Yeah, likely. Because it's a complicated scenario. It's not just about addressing the stormwater runoff, right? There's other...other issues. There's more of the uses that are occurring that are also a concern, and so that's outside the authority of this ordinance and would require that coordination to address all the...all the issues going on on these properties.

COUNCILMEMBER PALTIN: Okay. Then to switch tracks, my other question regarding the gulches that are piled up. Some is, like, man-made rubbish, and then in other cases, I guess, you know, folks fell trees or whatever, and they just drop them in the gulches, green waste, and like that. It's not helpful to, like, our reefs and stuff to have, like, cut logs rolling around and stuff like that. Would those be covered by this ordinance, or is it mostly, like, man-made kind of rubbish?

MR. MOLINA: Those are also potential. We also have a separate code that talks about blocking drainageways that would apply in that scenario also. That one gets --

COUNCILMEMBER PALTIN: Oh, that's already in existence.

MR. MOLINA: -- I mean, that's a more complicated scenario because naturally, trees and vegetation end up in waterways. So, again, it's going to be kind of the nature of the situation, how obvious, how much evidence we can compile to then go against...or go after the property owners for those activities.

COUNCILMEMBER PALTIN: I mean, the trees that have been cut and thrown into the drainageways is more obvious because it's not...like, you can see a tree that fell and a tree that cut, and it's pretty obvious which is which. But I don't know how you would go after the person that cut it because maybe the landowner hired someone, their view is being blocked or whatever, and it's after the fact. So...

MR. MOLINA: But we would...we would pursue against the property owner.

COUNCILMEMBER PALTIN: Oh, okay. Cool. I think those are my main points. If somebody is draining, like, a hotel, or someone is draining their pool and the complainant doesn't

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know if it's dechlorinated or not, they can just report it anyway, right?  
...*(timer sounds)*...

MR. MOLINA: That's correct. Most reports come in with, you know, pieces of information that we have to then verify.

COUNCILMEMBER PALTIN: Okay. Cool. Stoked on this bill. Heard the bell.

COUNCILMEMBER U'U-HODGINS: Chair, I have one more small question, if you don't mind.

CHAIR COOK: Okay. Member U'u-Hodgins?

COUNCILMEMBER U'U-HODGINS: Thank you. I have a question. On some of your photos--like, I see the one in Pā'ia right by the corner of Milagros--and they have big openings for grates, which I see the benefit, and then I see how sometimes it doesn't work. That allows for a lot of trash to move past. And there's another photo with grass. Is there any way we can get, like, smaller grates to prevent that? And I know that allows for some buildup on the top sometimes, but it allows for less rubbish to fall through.

MR. MOLINA: Yeah. I mean, that's a challenging scenario because if we make smaller grates, then there's more flooding. So, we have to kind of pick our poison.

COUNCILMEMBER U'U-HODGINS: And what's the balance then we're looking for? These are all different size grates we have.

MR. MOLINA: Yeah. I mean, the grates are dependent on the drainage area, of course. So --

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: -- you know, like, the bottom of Baldwin Ave at Hāna Highway, you're draining a lot of road versus a small neighborhood.

COUNCILMEMBER U'U-HODGINS: Yeah.

MR. MOLINA: So, that...that goes into sizing --

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: -- the drainage inlets.

COUNCILMEMBER U'U-HODGINS: Okay.

MR. MOLINA: But yeah, it's a balance. One of our biggest mitigations we have is our street sweepers. That's probably the number one pollution prevention activity the County does.

COUNCILMEMBER U'U-HODGINS: Okay.

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MR. MOLINA: Those street sweepers help keep a lot of materials off the streets. So, when it does rain, there's just a significantly less quantity of stuff available to flow into the ocean.

COUNCILMEMBER U'U-HODGINS: Okay. Okay. Thanks. That's all I have. Thanks.

CHAIR COOK: Thank you. Members, additional questions? If so, raise your hand. Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. Just to follow up on that last point, Director Molina, about street sweepers. Because of this bill, do you plan to increase the budget on the amount of street sweepers we need to buy?

MR. MOLINA: That's a consideration if we can get support for it. You know, we recognize that street sweeping, out of all the things we do, is...has the biggest bang for the buck in terms of pollution prevention. And so, yeah. If we can get more of them out there, you know, that will just expand our reach. So, that is part of the strategy being considered. Thank you.

COUNCILMEMBER JOHNSON: Okay. We look forward to hearing your proposal in the budget season on those street sweepers. But I'm curious if these vehicles--I'm thinking of fire trucks and things--take like a year to get here. Is that same for street sweepers?

MR. MOLINA: Yeah. All custom heavy equipment since COVID has taken a long time, usually two to three years to actually get on-site.

COUNCILMEMBER JOHNSON: So, are you going to be ready, you know, like if this bill comes into effect and then, you know, it takes two to three years to get a vehicle, is that going to...are you...is that a consideration?

MR. MOLINA: It's not a concern. You know, street sweeping --

COUNCILMEMBER JOHNSON: Okay.

MR. MOLINA: -- is part of our maintenance practices that we put forward in our stormwater management plan. And so, we don't have a concern from DOH as far as it being inadequate at this time.

COUNCILMEMBER JOHNSON: Okay.

MR. MOLINA: So, no concern on that front. It would just be slowing our ability to expand that service throughout the County.

COUNCILMEMBER JOHNSON: Yeah. I understand that it just takes so long for those to get here, so I wonder if they're going to be doing double time in the meantime. But thanks for that response. Thank you, Chair. No further questions.

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CHAIR COOK: Member Rawlins-Fernandez, I see your hand up.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, my question is not about the bill. It's about more of the education campaign that we are talking about. As part of the education campaign, as we know, common sense ain't so common. Would we like put message...can we put messages on our County-owned trash bins and receptacles that says, "if the trash can is full, take your trash with you," or something like that? You know, like that kind of messaging. So, that...because, like, people will keep piling on, and it blows away. And like, you know...so that's the question.

MR. MOLINA: Yeah, thank you. Yeah, I guess that speaks to the broader, you know, litter prevention campaign as well. And I know DEM is looking at revamping their litter control because they have been primarily our lead agency on, you know, litter education and litter enforcement. So, we would be partnering with them to help expand the education outreach, you know, to improve our waste management and our litter control.

COUNCILMEMBER RAWLINS-FERNANDEZ: Can you share with them my idea?

MR. MOLINA: Yeah, we'll take that back to them. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Thank you. Mahalo, Chair.

CHAIR COOK: Member Sugimura?

VICE-CHAIR SUGIMURA: Keani's question made me think of this. So, if we wanted to have community education, can we contact your Department and get, I guess, Mikki Signs [sic] to come and do a community meeting? Is that the process?

MR. MOLINA: Yeah. We're happy to accommodate any kind of meeting where we can share about the program and about, you know, pollution prevention.

VICE-CHAIR SUGIMURA: Great. Thank you. Ready for the question when you are.

CHAIR COOK: Okay. Thank you. Chair has a couple of questions. If everybody...everybody finished with their questions? Okay. Oh, Director, I'm curious. What's the street...

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, Chair. Real quick. Okay. Never mind.

CHAIR COOK: Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. I just needed everyone to mute so that I could hear you. Mahalo, Chair.

CHAIR COOK: So, can you hear me now? Okay. Director, what's the approximate cost of the street sweeper?

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MR. MOLINA: Oh, 300? 400? Yeah.

CHAIR COOK: 400.

MR. MOLINA: \$400,000 approximately.

CHAIR COOK: What's the life expectancy of one, 10 years?

MR. MOLINA: Yeah, in that range, generally. They do track a lot of miles. And so, they'll probably hit the mileage rotation before the year. But I mean, there...there's a lot of mechanical systems on those things. And so, they're constantly needing repair and maintenance.

CHAIR COOK: How many do we currently have?

MR. MOLINA: I want to say somewhere in the range of four...four to five, I believe.

MS. SLENTZ: There's a few more than that, I believe, throughout the County.

MR. MOLINA: Oh, thanks, Mikki.

CHAIR COOK: Thank you. As far as the enforcement, you're saying like Planning does the enforcement, or Public Works does the enforcement, or you basically do it in collaboration?

MR. MOLINA: No, we would do the enforcement. It's just that the framework for enforcement starts with that Title 19 provisions.

CHAIR COOK: The catch basins on the storm drains, do they have...like the outlet is above the bottom of it so that there's a debris catchment area where we're talking about the grates so the debris goes in?

MR. MOLINA: Yeah. Generally not, because we don't want standing water. There are strategies, like baskets to catch debris, which we kind of...we have explored. The only concern is just the labor-intensive nature of that and being sure we can get to all of them. Because they'll cause backup and flooding if they're not clean. So, that's...that's the drawback of implementing too much filters on the system is, we got to be ready to open them when we have the big storms anticipated.

CHAIR COOK: Is there a current schedule or program for monitoring and cleaning out the storm drains and the highways?

MR. MOLINA: Yeah. Generally, when we have weather alerts coming through, we deploy our crews to go check, ensure that drains are open. So, that's our primary mechanism at this time.

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CHAIR COOK: Thank you. Is...my last question is, like commercial car washes and like condominium areas that have areas designated for car washing, is that a Department of Health or is that...Public Works monitor those?

MR. MOLINA: It would be both. So, if they don't have a permitted system to handle that wastewater, then that's something this ordinance would look to enforce. And then we could also look at other Water Code to see what would be applicable in those situations.

CHAIR COOK: And I said it's detention or retention basins that are designed to capture the stormwater. Is that...whose responsibility is it for cleaning those out? . . .*(timer sounds)*. . . If it's on private property, it would be private; if it's public, it would be public entity?

MR. MOLINA: That's correct. Whoever owns the facility is responsible for the maintenance.

CHAIR COOK: Okay. Thank you very much. Any further discussion? Seeing no further discussion, we'll move on.

COUNCILMEMBER PALTIN: Oh, Chair?

MR. PASCUAL: I apologize. Member Paltin had her hand raised.

CHAIR COOK: Okay. Thank you for pointing that out. Member Paltin?

COUNCILMEMBER PALTIN: I just was checking if you ever got your Police car wash facility.

CHAIR COOK: They...actually an update on that. They decided that there was other more pressing needs. And so, they are just using the...either handwashing it or using a contract car wash, and they've taken that off of their request list.

COUNCILMEMBER PALTIN: So, the handwashing is okay, we won't get cited?

MR. MOLINA: We'll have to go take a look to see exactly what's happening.

COUNCILMEMBER U'U-HODGINS: And use environmental-safe soap.

COUNCILMEMBER PALTIN: Oh, main thing it's an environmental-safe soap.

MS. SLENTZ: Yeah, if it's handwashed and it's dry methods without discharging, then that would be okay.

COUNCILMEMBER PALTIN: Oh, okay. I just wanted to be prepared when we sign the ordinance. Thank you.

MR. MOLINA: Chair, if I may? So, part of our MS4 program is, of course, the County is under heightened scrutiny. And so, we regularly coordinate with all our departments that operate facilities. We've conducted inspections for them to get ahead of any sort of

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potential illicit discharge concerns. And so, that's a regular event. We have regular meetings with them to ensure that those facility managers understand the regulation and understand best practices to, yeah, making sure we're not ourselves being polluters. Thank you.

MS. SLENTZ: And if I may also add, we have an ocean-friendly car wash kit that's available for residents to rent for free as well.

COUNCILMEMBER PALTIN: Okay. And so, part of that has been 13...Mile Marker13.5 and Cut Mountain has been inspected?

MR. MOLINA: Our focus is primarily in the MS4 at this time. So, we haven't yet expanded this...they're...taking the proactive actions against those properties.

COUNCILMEMBER PALTIN: Okay. Cool. I'll be ready when the bill passes.

CHAIR COOK: Okay. Members, if there's no further discussion, we'll move on to decision making. The Chair would like to entertain a motion to recommend passage of Bill 157 (2024) on first reading.

COUNCILMEMBER U'U-HODGINS: So moved.

COUNCILMEMBER LEE: Second.

CHAIR COOK: So moved by Member U'u-Hodgins, and seconded by Chair Lee, to recommend passage of Bill 157 (2024) on first reading. Members, any discussion before I move on to my amendment summary form? Seeing none. Members, your Chair would like to entertain a motion to substitute Bill 157 (2024) with the attached proposed CD1 version, incorporating the amendments referenced in the ASF's description. Motion?

COUNCILMEMBER LEE: So moved.

COUNCILMEMBER U'U-HODGINS: Second.

CHAIR COOK: Motion made by Chair Lee, seconded by Member U'u-Hodgins, to substitute Bill 157 with the proposed attached CD1 version. Members, this ASF simplifies the bill's title and incorporates revisions for clarity, consistency, and style. Any discussion? Member Sugimura.

VICE-CHAIR SUGIMURA: The copy I have, I think Corp. Counsel didn't sign. Are they? It's just maybe a tiny thing.

CHAIR COOK: Corp. Counsel?

MR. ROWE: Yes, I believe that this also was a time issue. We will note that the CD1 version did actually catch a correction that we were going to ask to be made to the original one



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anyway, so we actually are supportive of it because there was a...a typographical error in the earlier version.

VICE-CHAIR SUGIMURA: That's it.

CHAIR COOK: Okay. Seeing no further discussion, all those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

MR. PASCUAL: Chair, you have eight "ayes," zero "noes," one excused, Member Kama. Motion passes.

**VOTE:       AYES:   Chair     Cook,     Vice-Chair     Sugimura,     and  
                  Councilmembers     Johnson,     Lee,     Paltin,  
                  Rawlins-Fernandez, Sinenci, and U'u-Hodgins.**

**NOES:   None.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   Councilmember Kama.**

**MOTION CARRIED.**

**ACTION:   SUBSTITUTE BILL 157, CD1 (2024).**

MR. PASCUAL: You're back to the main motion as amended.

CHAIR COOK: Thank you, Members. Now we are back to the main motion as amended. Any further discussion? Seeing none. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

MR. PASCUAL: Chair, eight "ayes," zero "noes," one excused, Member Kama. Motion passes.

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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 34 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 20th day of December 2024, in Wailuku, Hawai'i



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Daniel Schoenbeck